

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 19-1458V

UNPUBLISHED

MICHAEL CONLEY, as Personal  
Representative of the Estate of KAREN  
CONLEY,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 10, 2021

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine and  
Pneumococcal Conjugate Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*Sean Franks Greenwood, Greenwood Law Firm, Houston, TX, for petitioner.*

*Voris Edward Johnson, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES**<sup>1</sup>

On September 23, 2019, Karen Conley<sup>2</sup> filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>3</sup> (the "Vaccine Act"). Petitioner alleged that she suffered that she suffered from a shoulder injury related to vaccine administration (SIRVA) after receiving a flu and pneumonia vaccine on December 2, 2018. Petition at 1. Petitioner further alleges that the vaccine was administered in the United States, Petitioner's injuries lasted for more than six months, and that neither she nor any member of her family received any type of award,

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> Karen Conley passed away during the pendency of this matter. On March 4, 2021, Petitioner's son, Michael Conley was substituted as the petitioner, as personal representative of Karen Conley's estate.

<sup>3</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

judgment, or settlement for her injuries. Petition at 1, 4. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 4, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for right shoulder SIRVA. On March 5, 2021, Respondent filed a proffer on award of compensation ("Proffer") indicating Petitioner should be awarded \$60,000.00. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$60,000.00 in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>4</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>4</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

On January 25, 2021, respondent, the Secretary of Health and Human Services, filed his Rule 4(c) Report conceding entitlement to compensation in this matter alleging a Shoulder Injury Related to Vaccine Administration (“SIRVA”). On February 4, 2021, the Court entered its Ruling on Entitlement, finding petitioner entitled to Vaccine Act compensation. Respondent now proffers that petitioner receive a compensation award consisting of a lump sum of **\$60,000.00** in the form of a check payable to petitioner, Michael Conley, as Representative of the Estate of Karen Conley.<sup>1</sup> This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.<sup>2</sup>

<sup>2</sup> Should petitioner die prior to entry of judgment, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering, and the parties reserve the right to move the Court for appropriate relief.

Petitioner agrees with the proffered award of \$60,000.00.<sup>3</sup>

Respectfully submitted,

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Dated: March 5, 2021

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<sup>3</sup> This proffer does not include any award for attorneys’ fees and costs that may be awarded pursuant to 42 U.S.C. § 300aa-15(e).